

**IN THE SENIOUR COURTS OF BELIZE**

**CENTRAL SESSION – CITY OF BELMOPAN, CAYO DISTRICT**

**IN THE HIGH COURT OF JUSTICE**

**INDICTMENT NO. C98 of 2020**

**BETWEEN:**

**THE QUEEN**

and

[1] **MR. DERICK CAL**

Defendant

**Appearances:**

Mr. Cecil Ramirez S.C.C, for the Crown

Mr. Arthur Saldivar, for the Defendant

**Dates:**

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Hearing Dates: 2023: June 12, 20, 21, 26

Judgment Date: June 28

July 6, 26

Sentencing Date: 2023: July 27  
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**JUDGMENT ON SENTENCING**

[1] **CUMBERBATCH, MR. FRANCIS M.; J:** The convicted man was indicted by the Director of Public Prosecutions for the offence of extortion for that he on the 7 and 8 April 2019, at Armenia Village, Cayo District, obtained from Sipriano Ical, the virtual complainant, the sum of five hundred Belize dollars (\$500.00) a sum which

he was not lawfully authorized to obtain contrary to the provisions of section 284 of the *Criminal Code*<sup>1</sup> CAP 101 of the Laws of Belize Revised Edition 2020.

- [2] Prior to the commencement of the trial counsel for the convicted man sought a sentence indication from the Court on what would be his sentence if he changed his plea to one of guilty to the counts on the indictment.

### **Facts**

- [3] On 6 April 2019, the convicted man called Melvin Ical on his cell phone and gave him certain information concerning his father, Sipriano Ical. Later that day, he spoke to Sipriano Ical and told him that he is a police officer attached to the Armenia Village Police Sub-station. He further stated that he had a video showing the presence of Sipriano's vehicle in the vicinity of the area where the body of, Hermenegildo Cal, Deceased was found and that if he did not pay him the sum of five hundred Belize dollars (\$500.00) he would arrest Sipriano and his family.
- [4] On the 7 April 2019, Sipriano handed over the sum of three hundred Belize dollars (\$300.00) to the convicted man at the Armenia Police Sub-station and on the

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<sup>1</sup> CAP 101 of the Substantive Laws of Belize Revised Edition 2020 section 284.

284.- **(1)** Every public officer or juror who is guilty of corruption or of willful oppression or of extortion in respect of the duties of his office, shall be liable to imprisonment for three years.

**(2)** Every person, other than a public officer or juror, who is guilty of corruption or of willful oppression or of extortion, shall be liable to imprisonment for three years.

**(3)** A person, other than a public officer or juror, is guilty of— **(a)** corruption, in relation to his decision to do any act or omission, if he directly or indirectly agrees or offers to do that act or omits to do that act, to be influenced by the gift, promise or prospect of valuable consideration to be received by him or by any other person from any person whoever, which he knows that he is not lawfully authorized to demand; **(b)** willful oppression, if he willfully commits any excess or abuse of his authority to the injury of the public or any person; **(c)** extortion, where by virtue of his position, that person demands or obtains from any other person whether for himself or any other person, any money or valuable consideration which he knows that he is not lawfully authorized to demand or obtain.

following day delivered four marked fifty Belize dollars (\$50.00) bills to him. The convicted man used one of those marked bills to purchase beers at the Mountain View Bar near to the Armenia Village. He was arrested by officers from the Belmopan Police Station and was later charged and indicted for the offence aforesaid.

- [5] I will proceed to consider and apply the classical principles of sentencing to the facts and circumstances herein as outlined by Lawson LJ in the celebrated decision of ***Sergeant v. The Queen***<sup>2</sup>.

### **Retribution**

- [6] It is common ground that the Accused was a police officer at the time of the commission of this offence. His reprehensible conduct is calculated to bring disgrace and discredit to the Belize Police Department, the premier law enforcement organization of this country which is charged with the duty to serve and protect its citizens and occupants.
- [7] The Court must show its abhorrence for this kind of criminal conduct by the sentence it imposes.

### **Deterrence**

- [8] This principle is intended to deter the Accused from reoffending in like manner and those members of this law enforcement organization who may be contemplating committing this or a similar offence from so doing. Here again the Court must impose a suitable sentence to discourage other members of the Belize Police

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<sup>2</sup> *Sergeant v. The Queen*

Department from acting in breach of their oath and bringing the Department into disgrace and dishonour.

### **Prevention**

[9] This principle is applicable to repeat offenders and those who are likely to reoffend and as such are considered to be a danger to the society.

[10] However, there is no evidence before me that this convicted person is or should be considered a danger to society, hence, this principle will not be considered herein.

### **Rehabilitation**

[11] The Court is obliged to consider the rehabilitation of the offender to ensure his smooth reintegration into society. I have heard from counsel for the convicted man the favourable submissions of the character and upbringing of this convicted person. The fact that he has accepted his wrongdoing and taken full responsibility for his actions augers well for his rehabilitation. Thus, I am satisfied that the convicted person is quite capable of rehabilitating himself.

### **Aggravating and Mitigating Factors**

[12] I find the following to be the aggravating and mitigating factors herein.

#### **Aggravating Factors**

1. The seriousness of this offence;
2. The offence was planned and premeditated;
3. The breach of the oath taken by the Accused as a member of the Belize Police Department;
4. The effect of the actions of the Accused on the virtual complainant and other members of the public.

### **Mitigating Factors**

1. The convicted person has pleaded guilty and taken full responsibility for his actions;
2. The hitherto clean criminal record of the Accused;
3. His favourable prospects for rehabilitation;
4. The remorse expressed.

[13] I find that after balancing the aggravating and mitigating factors in light of the facts and circumstances herein that the aggravating factors outweigh the mitigating ones.

### **Sentence**

[14] The Court has ruled at the hearing of the sentence indication application that it will impose a non-custodial sentence in the form of a fine not exceeding seven thousand five hundred Belize dollars (\$7,500.00). Accordingly, in keeping with that ruling aforesaid and having taken into consideration the favourable factors by way of mitigation aforesaid the convicted man is fined in the sum of five thousand Belize dollars (\$5,000.00) to be paid within nine (9) months failing which he shall serve a period of imprisonment of six (6) months.

Mr. F M Cumberbatch

Honourable Justice of the High Courts